

ORIGINAL
RICHARD S. BECKER & ASSOCIATES
CHARTERED
1915 EYE STREET, N.W.
EIGHTH FLOOR
WASHINGTON, D.C. 20006

(202) 833-4422

TELECOPIER
(202) 296-7458

RICHARD S. BECKER
JEFFREY E. RUMMEL
OF COUNSEL
JAMES S. FINERFROCK

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William F. Caton, Acting Secretary
Federal Communications Commission
Washington, DC 20554

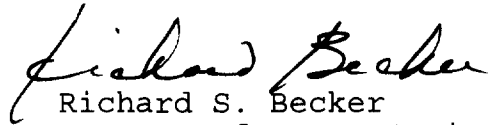
Re: In the Matter of Improving
Commission Processes
PP Docket No. 96-17

Dear Mr. Caton:

Transmitted herewith on behalf of TSR Paging Inc. are one (1) original paper, nine (9) paper copies, one (1) silver master microfiche, and two (2) diazo duplicate microfiche copies of Comments with respect to the Notice Of Inquiry released by the Commission on February 14, 1996, in the above-captioned proceeding.

Should you have any questions with respect to this matter, please communicate directly with this office.

Sincerely,


Richard S. Becker
Attorney for TSR Paging Inc.

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
) PP Docket No. 96-17
Improving Commission Processes)
To: The Commission

COMMENTS

TSR Paging Inc. ("TPI"), by its attorneys and pursuant to 47 C.F.R. §§1.415 and 1.430, hereby submits these Comments in response to the Notice Of Inquiry¹ in the above-captioned proceeding. In support of these Comments, the following is respectfully shown.

I. Introduction

1. In the NOI, the Commission identified and described the steps taken by its various Bureaus to implement the customer service standards developed by each Bureau in September of 1995, in conjunction with the Commission's Office of Managing Director.² In light of the efforts made by the Bureaus to fulfill these self-imposed standards, the Commission in its NOI sought comment generally as to "whether the Bureaus are achieving their stated goals and do the published standards, in fact, reflect the issues of most concern to various interested parties?"³ In addition, the

¹Notice Of Inquiry, PP Docket No. 96-17, FCC 96-50 (February 14, 1996) (hereinafter "NOI").

²The Customer Service Standards of the Wireless Telecommunications Bureau, available in pamphlet form at the Public Service Division of the Commission's Office of Public Affairs, will be referred to herein as the "Bureau Standards."

³NOI at ¶6.

Commission invited comment on several specific questions relating to the Commission's processes, including, but not limited to the following:

What area(s) of Commission operations have serious problems with processing delays that result in significant unnecessary costs or other adverse impacts on regulated entities? What are some specific suggestions for alleviating such processing problems?⁴

Finally, the NOI solicited comment with respect to the functions and performance of each of the Bureaus. In connection with the Commission's Wireless Telecommunications Bureau ("Wireless Bureau"), the Commission asked, inter alia, "[W]hat Wireless Bureau processes, including licensing, need improvement?" and "How can we make the licensing process faster, less expensive and more effective?"⁵ By these Comments, therefore, TPI addresses the specific issues and questions identified above in order to assist the Commission in improving its methods of "processing documents and streamlining [its] rules and procedures."⁶

II. The Interest Of TPI

2. TPI is a communications company primarily engaged in the provision of one-way paging services. TPI currently provides wide-area, one-way paging service in numerous states, including New York, Connecticut, Rhode Island, Massachusetts, Maine, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, the District of Columbia, Texas, Wisconsin, Illinois, Indiana, New Mexico, Arizona,

⁴Id. at ¶9.

⁵Id. at ¶17.

⁶Id. at ¶7.

Nevada and California. TPI provides one-way paging service on both Common Carrier Paging ("CCP") and 929 MHz Private Carrier Paging ("PCP") Channels. In point of fact, TPI is now licensed for a nationwide exclusive paging system on the PCP Channel 929.2125 MHz⁷ and TPI is currently in the process of completing construction of that system pursuant to an extended implementation authorization granted to TPI by the Commission on December 1, 1995, pursuant to 47 C.F.R. §90.496.⁸ As a multi-state, wide-area CCP and PCP paging carrier, TPI is extremely interested in the issues identified in the NOI as they relate to the Wireless Bureau, including the specific issues identified above relating to the streamlining of the Commission's processing of documents and the avoidance of unnecessary delays in licensing and other areas.

**III. In Light Of The Customer Service Goals Of
The Commission, The Enforcement Division Must Be
Encouraged To Expeditiously Dispose Of Pending Litigation**

**A. The Enforcement Division Has Failed To Dispose Of
Litigation Instituted By TPI Two Years Ago**

3. As the operator of various CCP and PCP systems, TPI closely monitors its facilities, as well as the PCP facilities of other Commission licensees, to ensure that such facilities operate in accordance with the Communications Act of 1934, as amended (the "Act"), as well as the Commission's Rules. When TPI's operations are interfered with or otherwise disrupted or attacked by other Commission licensees, TPI fulfills its obligations as a Commission

⁷See, e.g., Station WPGD 501, File No. 674235.

⁸See Commission Letter 7110-162 dated December 1, 1995.

licensee by promptly notifying the Commission of such violations and requesting appropriate relief. Accordingly, two years ago, TPI⁹ instituted license revocation proceedings ("Proceedings") under Section 312 of the Act¹⁰ against Thomas W. Luczak d/b/a Cellular Paging and Kwik-Page Communications, Inc. (referred to collectively herein as "Luczak"). Specifically, TPI has filed the following pleadings ("Pleadings") in connection with the above-referenced Proceedings: (i) "Petition For Revocation Of Licenses," filed March 15, 1994; (ii) "Reply to Opposition To Petition For Revocation Of Licenses," filed April 5, 1994; (iii) "Request For License Cancellation" filed June 22, 1994; (iv) "Opposition to Motion To Strike" filed July 18, 1994; (v) "Supplement To Petition For Revocation of Licenses" filed July 18, 1994; (vi) "Motion For Leave To File Supplemental Pleading" filed July 18, 1994; and (vii) letter from TPI to the Wireless Bureau's Enforcement Division dated May 12, 1995, in reply to Luczak's letter response to the Commission's letter dated April 27, 1995. Therefore, with respect to these Proceedings which were initiated by TPI two (2) years ago, the last Pleading was filed by TPI over ten (10) months ago. Since that time, the Commission has had in its possession all of the filings and submissions relating to (and necessary for the resolution of) the Proceedings, including all of the allegations

⁹The proceeding described herein was originally instituted on behalf of TPI's predecessor-in-interest, San Diego Paging, Inc. ("SDP"). For the purposes of these Comments, TPI and SDP will be referred to herein as TPI.

¹⁰47 U.S.C. §312.

specified in TPI's Pleadings. However, the Enforcement Division has not yet issued any decision or taken any action in connection with the Proceedings. As a result, these matters remains pending before the Enforcement Division two (2) years after the Proceedings were instituted by TPI.

B. The Failure To Timely Resolve These Proceedings Has Adversely Affected TPI And Is Contrary To The Public Interest

4. In the NOI, the Commission described its goals as, inter alia, to "reduce waste."¹¹ Further, the Commission stated that "the primary objective of the Wireless Bureau is to improve its processes to provide better services to [its] customers."¹² In addition, the Wireless Bureau's Enforcement Division is charged with the responsibility of "[e]nsur[ing] compliance with Commission rules, orders, and policies."¹³ Commission licensees, such as TPI, have the right to expect the Commission (along with its various Bureaus and Divisions) to fulfill its vital public interest mandate to enforce its Rules where a violation of such Rules has been demonstrated.¹⁴ In this regard, TPI has expended thousands of

¹¹NOI at ¶9.

¹²Id., at ¶10.

¹³Wireless Telecommunications Bureau Home Page, ("WTB Home Page"), "Enforcement/Complaints," <http://www.fcc.gov/wtb/wirehome.html>.

¹⁴See 47 U.S.C. §1 ("For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available a rapid, efficient, nationwide and world-wide wire and radio communication service ... there is hereby created a commission to be known as the 'Federal Communications Commission,' which shall execute and enforce the provisions of this Act").

dollars in attorneys' fees to prove the violations by Luczak set forth in TPI's Pleadings and TPI personnel have invested countless hours of effort in setting forth TPI's substantial evidence against Luczak and providing documentary support for the allegations contained in the Pleadings.

5. To date, however, the Enforcement Division's inattention to the above-described license revocation Proceedings can only be described as a failure to live up to the laudable customer service standards identified above. The responsibility of the Commission to enforce its Rules includes the authority to bring wrongdoers to justice when appropriate, either through license revocation proceedings or other methods.¹⁵ However, when the Commission fails to exercise its public interest mandates in clearly appropriate circumstances, the communications systems of Commission licensees are left unprotected and subject to unprovoked attacks, resulting in a situation where justice delayed is truly justice denied.¹⁶ Indeed, as demonstrated by the allegations in TPI's Pleadings, the unchecked actions of Luczak have adversely affected TPI's wide-area paging operations. In addition, repeated inaction by the Commission can only serve to encourage repeated violations of the Act and the Commission's Rules by entities which slowly begin to perceive that they are not likely to be held accountable for their illegal activities. Most importantly, these results negatively

¹⁵See e.g., 47 U.S.C. §312.

¹⁶Cf. Ashbacker Radio Co. v. F.C.C., 326 U.S. 327 (1945).

affect the credibility of the Commission with the telecommunications industry and the public at large.

6. TPI, therefore, respectfully submits these Comments in the hope that the Commission will continue to maintain the trust of the American people by encouraging the expeditious resolution of litigation pending before the Enforcement Division. TPI respectfully submits that the Wireless Bureau should implement the necessary safeguards to ensure that license revocation proceedings, such as the one initiated by TPI against Luczak, are expeditiously resolved. Perhaps the implementation by the Commission of a mandatory timeline within which cases must be resolved will help to accomplish this worthy goal, and as a result, help to achieve the customer service standards that the communications industry has come to expect from the Commission.

C. The Bureau's Standards Do Not Reflect A Commitment To The Expeditious Processing Of Litigation Such As The License Revocation Proceedings Described Herein

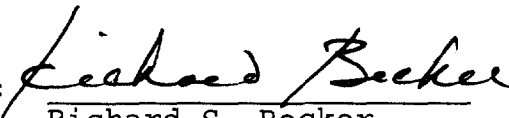
7. The Bureau's Standards focus on five (5) distinct areas, namely: (i) the creation of FCC Forms ("Forms") and the provision of Forms to the public; (ii) the processing of applications; (iii) the improvement of the Wireless Bureau's policies and rulemaking procedures; (iv) the release of information and Public Notices; and (v) improved telephonic access to the Wireless Bureau. Conspicuously missing from these stated goals is an expressed commitment to the expeditious processing of litigation such as the license revocation Proceedings described herein. TPI respectfully submits that the Bureau's Standards should be modified so as to

include such a commitment. Of course, the success of the Wireless Bureau's customer service efforts can only be judged on its actions, but the inclusion of this issue in the Bureau's Standards will, at the very least, demonstrate to the public that the Wireless Bureau is aware of this problem.

WHEREFORE, TPI respectfully submits these Comments with respect to the NOI in the above-captioned proceeding.

Respectfully submitted,

TSR PAGING INC.

By: 
Richard S. Becker
James S. Finerfrock
Jeffrey E. Rummel

Its Attorneys

Richard S. Becker & Associates, Chartered
1915 Eye Street, Northwest
Eighth Floor
Washington, DC 20006
(202) 833-4422

Date: March 15, 1996

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